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Fisher Scientific Company L.L.C.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JAMES R. S. HERBERT and	) Civil No. 13-00452 DKW/BMK
BARBARA ELLIS	) Civil No. 13-00705 DKW/BMK
	) (Consolidated Cases)
Plaintiffs,)
	) FINDINGS AND
vs.	) RECOMMENDATION TO
	) GRANT DEFENDANT FISHER
1) FISHER SCIENTIFIC COMPANY	) SCIENTIFIC COMPANY
L.L.C., a Delaware corporation;	) L.L.C.'S MOTION FOR
	) DETERMINATION OF GOOD
2) VWR INTERNATIONAL, LLC,	) FAITH SETTLEMENT
successor in interest to Sargent-Welch)
Scientific Company, a Delaware)
corporation; and)
)
3) DOES 1 to 25,	) Trial: March 2, 2015
	) Judge: Hon. Derrick K. Watson
Defendants.)

FINDINGS AND RECOMMENDATION TO GRANT DEFENDANT
FISHER SCIENTIFIC COMPANY L.L.C.'S MOTION FOR
DETERMINATION OF GOOD FAITH SETTLEMENT

Before this court is Defendant Fisher Scientific Company L.L.C.'s ("Fisher Scientific") Motion for Determination of Good Faith Settlement filed on August 12, 2014. Plaintiffs filed a statement of no opposition on September 26, 2014.

This matter came on for hearing on October 8, 2014 at 1:30 p.m. before The Honorable Barry M. Kurren. The following counsel appeared: L. Richard DeRobertis for Plaintiffs; John T. Williams, Esq. by telephone, and Jerold T. Matayoshi, Esq. for Fisher Scientific Company L.L.C.; and Michael P. Pulliam, Esq. by telephone, for VWR International, LLC.

After careful consideration of the Motion, supporting memoranda, and Mr. Pulliam's representation that VWR International, LLC, the only other party in this case, does not oppose the Motion, this Court hereby finds and recommends that Fisher Scientific's Motion be GRANTED for the reasons set forth below and on the terms set forth below.

1. In light of the totality of the circumstances, the settlement between Plaintiffs James R. S. Herbert and Barbara Ellis (collectively, "Plaintiffs") and Fisher Scientific was entered in good faith within the meaning of HRS § 663-15.5.

2. Fisher Scientific has given proper notice to all joint tortfeasors and co-obligors in this action, and has satisfied the notice requirements set forth in HRS § 663-15.5.

3. Fisher Scientific is hereby discharged from any and all liability for contribution, indemnification or the like that has been or may later be brought by or on behalf of any other joint tortfeasor, co-obligor, and/or non-settling party. Any further claims against Fisher Scientific from any other joint tortfeasor, co-obligor, and/or non-settling party relating to or arising out of Plaintiff James R. S. Herbert's alleged inhalation of asbestos are barred.

4. Any and all claims asserted herein against Fisher Scientific are hereby dismissed with prejudice.

5. This Court shall retain jurisdiction to enforce the terms of the settlement agreement between Plaintiffs and Fisher Scientific.

On the basis of the foregoing, the Court FINDS AND RECOMMENDS that the district court grant Defendant Fisher Scientific Company L.L.C.'s Motion for Determination of Good Faith Settlement, filed August 12, 2014.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, October 9, 2014.



/S/ Barry M. Kurren
Barry M. Kurren
United States Magistrate Judge

JAMES R.S. HERBERT AND BARBARA ELLIS V. FISHER SCIENTIFIC COMPANY,
L.L.C., ET AL.; CIVIL NOS. 13-00452 DKW/BMK AND 13-00705 DKW/BMK
(CONSOLIDATED); FINDINGS AND RECOMMENDATION TO GRANT DEFENDANT
FISHER SCIENTIFIC COMPANY L.L.C.'S MOTION FOR DETERMINATION OF GOOD
FAITH SETTLEMENT